REMARKS

This Amendment is in response to the Final Office Action mailed 04/16/2004. Applicant has filed a Request for Continued Examination to have the Office withdraw the finality of the Office Action and have this submission entered and considered. In the Office Action, the Examiner rejected claims 1-42 under 35 U.S.C. § 103. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Summary of Telephonic Interview

Applicant thanks the Examiner for the courtesy of a telephonic interview on August 24, 2004. The Examiner's use of Mitra's disclosure of service level agreements to teach or suggest "means for determining said second media type in accordance with a service plan profile of a calling party associated with said voice call" was discussed. The Examiner provided a copy of a page from Newton's Telecom Dictionary which provides the following definition:

> Service Level Agreement SLA. An agreement between a user and a service provider, defining the nature of the service provided and establishing a set of metrics (fancy word for measurements, to be used to measure the level of service provided measured against the agreed level of service. Such service levels might include provisioning (when the service is meant to be up and running), overage availability, restoration times for outages, availability, average and maximum periods of outage, average and maximum response times, latency, delivery rates (e.g., average and minimum throughput). The SLA also typically establishes trouble-reporting procedures, escalation procedures, penalties for not meeting the level of service demanded—typically refunds to the users. An example: in May of 1998, GTE announced a new SLA that promises its "Internet Advantage dedicated Internet access customers will get a minimum packet loss guarantee from GTE. If Internet Advantage customers experience

> more than a 10% pocket loss during any ten minute interval, they will be credited with one day service." UUNET Technologies has a SLA that says if its network is unavailable for one, you, the user are credited with one full day of service.

On the cover sheet of the facsimile, the Examiner made the following comments:

> This fax is in regards to the dictionary definition of the term "Service Level Agreements" (SLA) as shown in Newton's Telecom Dictionary. Note, this definition points out the SLA is a combination of the nature of the service being provided (i.e., media type) and the metrics (QOS) used to provide that service. Note, your specification also mentions that the service profile is used for determining the media type and the QOS (see page 6 line 6 and page 4 lines 11 and 12), thus it appears as though the SLA of Mitra is in-line with the description in the specification.

No agreement was reached as to any claims.

Rejections Under 35 U.S.C. § 103

3. The Examiner rejects claims 1-4, 6-8, 12-15, and 17-19 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar et al. (US 6, 172,973) in view of Mitra et al. (US 6,331,986).

Referring to claims 1 and 12, the Examiner admits that Akhtar does not disclose converting to and from VoIP and VoFR. The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to implement VoIP and VoFR in the Akhtar system because VoIP and VoFR were known standards. Applicant respectfully disagrees.

Akhtar teaches a system that inserts an ATM network between two standard TDM endpoints and provides common channel signaling for end to end control without repeated conversion delays. Abstract. Akhtar teaches the use of a voice switch that is connected to a TDM network on one side and an ATM network on the other side. Nothing in Akhtar teaches or

suggests means for switching between more than one signaling type on either side of the voice switch much less on both sides as claimed. That other signaling types were known would not make it obvious to modify Akhtar as suggested by the Examiner. Nothing in Akhtar teaches or suggests a voice switch that can accept more than one type of signaling at a connection. The mere fact that other signaling types were known and that their use is desirable is not sufficient to provide a motivation to modify the teachings of Akhtar so that the disclosed voice switch could accept a connection that carries more than one type of media. Since Akhtar teaches a voice switch that performs a predefined one-to-one translation there would be no expectation of success in modifying the voice switch to handle a many-to-many translation as claimed.

The Examiner asserts that Akhtar teaches signaling information of the TDM connections is relayed through the ATM connections citing figure 3, claim 1, and the abstract. Applicant respectfully disagrees.

Akhtar teaches that "control is accomplished in parallel over the standard public switch telephone network while the voice 'data' is transported over an ATM 'data' network." [emphasis added] Abstract. Thus Akhtar teaches away from "relaying signaling associated with said voice call of said first signaling type to a second signaling type corresponding to said second media type" as claimed.

Applicant has amended claims 1 and 12 to remove the element of "means for determining said second media type in accordance with a service plan profile of a calling party associated with said voice call" and presented this element in amended dependent claims 11 and 22. Claims 4, 10, 15, and 21 are amended to provide proper antecedence in view of these amendments.

The Examiner admits that Akhtar does not disclose means for determining said second media type in accordance with a service plan profile of a calling party associated with the voice

call. The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to implement a system wherein a network operator uses service level agreements it has with their customers (i.e. calling parties), in order to provide different service types (i.e. media types)(see column 4 lines 47-53) as disclosed by Mitra. Applicant respectfully disagrees.

The disclosure of service level agreements (SLAs) by Mitra is not a disclosure of "a service plan profile of a calling party" as used in this application. As discussed on page 49, lines 3-6, of the specification as filed, service plan profiles are maintained by the call server for individuals or groups of users. It would be understood by one of ordinary skill in the art that "a service plan profile of a calling party" as used in this application refers to information maintained by the carrier class switch apparatus to control how the switch handles calls placed by various calling parties that use the switch to place telephone calls to be received and relayed by the switch. Service level agreements as used by Mitra are agreements between a service provider (i.e. the operator of the network to which a switch is attached) and an operator of a device that uses the provided service (i.e. the operator of the switch). SLAs are contracts that define what service will be provided in bulk. An SLA would at best define what media types are to be provided by the service provider. The SLA would not determine which of the provided media types the carrier class switch apparatus should use in handling a particular voice call. There is no motivation to combine SLAs as taught by Mitra with the system of Akhtar as suggested by the Examiner because Akhtar does not teach or suggest the use of more than one media type to forward voice calls so there is no selection of a second media type to be made. There would be no reasonable expectation of success in combining SLAs as taught by Mitra with the system of

Akhtar because the system of Akhtar is predefined with regard to what media type it receives (i.e. TDM) and what media type is used to relay the signaling and forward the voice call (i.e. ATM).

Referring to claims 2 and 13, applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional limitations recited.

Referring to claims 3 and 14, the Examiner asserts that Akhtar discloses that the system comprises means for associating said voice call with a quality of service requirement, citing column 2, lines 1-18, and column 3, lines 40-57. Applicant understands the cited portions of Akhtar to disclose that the system operates to minimize the end to end delay of the system which results in a higher quality of service. This does not disclose associating a call with a quality of service requirement. The system disclosed by Akhtar provides a quality of service without regard to a specific call being handled. Indeed, there is nothing the system of Akhtar can change in response to a QoS requirement of a specific call so there would be no motivation for Akhtar to associate a QoS with a call.

Referring to claims 4 and 15, the Examiner admits that Akhtar does not disclose means for determining said quality of service requirement in accordance with a service plan profile of a calling party associated with the voice call. The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to implement a system wherein a network operator uses service level agreements it has with their customers (i.e. calling parties), in order to determine and provide quality of service requirements (see column 4 lines 47-53) as disclosed by Mitra. Applicant respectfully disagrees.

The disclosure of service level agreements (SLAs) by Mitra is not a disclosure of "a service plan profile of a calling party" as used in this application. As discussed on page 49, lines

3-6, of the specification as filed, service plan profiles are maintained by the call server for individuals or groups of users. It would be understood by one of ordinary skill in the art that "a service plan profile of a calling party" as used in this application refers to information maintained by the carrier class switch apparatus to control how the switch handles calls placed by various calling parties that use the switch to place telephone calls to be received and relayed by the switch. Service level agreements as used by Mitra are agreements between a service provider (i.e. the operator of the network to which a switch is attached) and an operator of a device that uses the provided service (i.e. the operator of the switch). SLAs are contracts that define what service will be provided in bulk. An SLA would at best define what minimum level of quality of service is to be provided by the service provider. The SLA would not associate a particular voice call with a quality of service requirement. There is no motivation to combine SLAs as taught by Mitra with the system of Akhtar as suggested by the Examiner because Akhtar does not teach or suggest a system that can respond to a quality of service requirement. There would be no reasonable expectation of success in combining SLAs as taught by Mitra with the system of Akhtar because the system of Akhtar is predefined with regard to what quality of service it will provide.

Referring to claims 6 and 17, applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional limitations recited.

Referring to claims 7 and 18, applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional limitations recited.

Referring to claims 8 and 19, applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional limitations recited.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 1-4, 6-8, 12-15, and 17-19 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Mitra.

4. The Examiner rejects claims 5, 9-11, 16, and 20-22 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Mitra and further in view of Lee (US 6,252,847).

Referring to claims 5 and 16, applicant has amended these claims to replace "quality of service requirement" with --second media type-- as disclosed in the specification as filed in the Abstract, lines 5-8. Applicant respectfully submits that none of Akhtar, Mitra, and Lee, alone or in combination, teaches or suggests determining a second media type in accordance with instantaneous availability of bandwidth resources as now claimed.

Referring to claims 9 and 20, applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional limitations recited.

Referring to claims 10 and 21, the Examiner admits that Akhtar does not disclose means for determining said quality of service requirement in accordance with a service plan profile of a calling party associated with the voice call. The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to implement a system wherein a network operator uses service level agreements it has with their customers (i.e. calling parties), in order to determine and provide quality of service requirements (see column 4 lines 47-53) as disclosed by Mitra. Applicant respectfully disagrees.

The disclosure of service level agreements (SLAs) by Mitra is not a disclosure of "a service plan profile of a calling party" as used in this application. As discussed on page 49, lines 3-6, of the specification as filed, service plan profiles are maintained by the call server for individuals or groups of users. It would be understood by one of ordinary skill in the art that "a service plan profile of a calling party" as used in this application refers to information maintained by the carrier class switch apparatus to control how the switch handles calls placed by various calling parties that use the switch to place telephone calls to be received and relayed by the switch. Service level agreements as used by Mitra are agreements between a service provider (i.e. the operator of the network to which a switch is attached) and an operator of a device that uses the provided service (i.e. the operator of the switch). SLAs are contracts that define what service will be provided in bulk. An SLA would at best define what minimum level of quality of service is to be provided by the service provider. The SLA would not associate a particular voice call with a quality of service requirement. There is no motivation to combine SLAs as taught by Mitra with the system of Akhtar as suggested by the Examiner because Akhtar does not teach or suggest a system that can respond to a quality of service requirement. There would be no reasonable expectation of success in combining SLAs as taught by Mitra with the system of Akhtar because the system of Akhtar is predefined with regard to what quality of service it will provide.

Referring to claims 11 and 22, applicant has amended these claims as discussed above in connection with claims 1 and 12.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 5, 9-11, 16, and 20-22 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Mitra and further in view of Lee.

5. The Examiner rejects claims 23 and 25-29 under 35 U.S.C. § 103(a) as being unpatentable over Bartholomew et al. (US 5,712,903) in view of Mitra.

Referring to claim 23, the Examiner admits that Bartholomew does not disclose converting to and from VoIP and VoFR. The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to implement VoIP and VoFR in the Bartholomew system because VoIP and VoFR were known standards. Applicant respectfully disagrees.

Bartholomew teaches the use of a gateway switch that is connected to a narrowband network and a broadband network. Nothing in Bartholomew teaches or suggests a broadband interface capable of communicating any of a variety of media types as claimed. That other media types were known would not make it obvious to modify Bartholomew as suggested by the Examiner. Nothing in Bartholomew teaches or suggests a gateway switch that can accept more than one type of media at a connection. The mere fact that other media types were known and that their use is desirable is not sufficient to provide a motivation to modify the teachings of Bartholomew so that the disclosed gateway switch could accept a connection that carries more than one type of media. Since Bartholomew teaches a gateway switch that performs a predefined one-to-one translation there would be no expectation of success in modifying the gateway switch to handle a many-to-many translation as claimed.

The Examiner admits that Bartholomew does not disclose means for determining said second media type in accordance with a service plan profile of a calling party associated with the voice call. The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to implement a system wherein a network operator uses service level agreements it has with their customers (i.e. calling parties), in order to provide different

service types (i.e. media types)(see column 4 lines 47-53) as disclosed by Mitra. Applicant respectfully disagrees.

The disclosure of service level agreements (SLAs) by Mitra is not a disclosure of "a service plan profile of a calling party" as used in this application. As discussed on page 49, lines 3-6, of the specification as filed, service plan profiles are maintained by the call server for individuals or groups of users. It would be understood by one of ordinary skill in the art that "a service plan profile of a calling party" as used in this application refers to information maintained by the carrier class switch apparatus to control how the switch handles calls placed by various calling parties that use the switch to place telephone calls to be received and relayed by the switch. Service level agreements as used by Mitra are agreements between a service provider (i.e. the operator of the network to which a switch is attached) and an operator of a device that uses the provided service (i.e. the operator of the switch). SLAs are contracts that define what service will be provided in bulk. An SLA would at best define what media types are to be provided by the service provider. The SLA would not determine which of the provided media types the carrier class switch apparatus should use in handling a particular voice call. There is no motivation to combine SLAs as taught by Mitra with the system of Bartholomew as suggested by the Examiner because Bartholomew does not teach or suggest the use of more than one media type to forward voice calls so there is no selection of a second media type to be made. There would be no reasonable expectation of success in combining SLAs as taught by Mitra with the system of Bartholomew because the system of Bartholomew is predefined with regard to what media type it receives (i.e. TDM) and what media type is used to relay the signaling and forward the voice call (i.e. ATM).

Referring to claim 25, applicant relies on the patentability of the claims from which this claim depends to traverse the rejection without prejudice to any further basis for patentability of this claim based on the additional limitations recited.

Referring to claim 26, applicant relies on the patentability of the claims from which this claim depends to traverse the rejection without prejudice to any further basis for patentability of this claim based on the additional limitations recited.

Referring to claims 27, 28, and 29, applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional limitations recited.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 23 and 25-29 under 35 U.S.C. § 103(a) as being unpatentable over Bartholomew in view of Mitra.

6. The Examiner rejects claims 24 and 30 under 35 U.S.C. § 103(a) as being unpatentable over Bartholomew in view of Mitra and further in view of Chu et al. (US 5,956,334).

Referring to claim 24, applicant relies on the patentability of the claims from which this claim depends to traverse the rejection without prejudice to any further basis for patentability of this claim based on the additional limitations recited.

Referring to claim 30, applicant relies on the patentability of the claims from which this claim depends to traverse the rejection without prejudice to any further basis for patentability of this claim based on the additional limitations recited.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 24 and 30 under 35 U.S.C. § 103(a) as being unpatentable over Bartholomew in view of Mitra and further in view of Chu.

7. The Examiner rejects claim 31 under 35 U.S.C. § 103(a) as being unpatentable over Bartholomew in view of Mitra and Chu and further in view of Rathnavelu (US 5,914,934).

Referring to claim 31, applicant relies on the patentability of the claims from which this claim depends to traverse the rejection without prejudice to any further basis for patentability of this claim based on the additional limitations recited.

Applicant respectfully requests that the Examiner withdraw the rejection of claim 31 under 35 U.S.C. § 103(a) as being unpatentable over Bartholomew in view of Mitra and Chu and further in view of Rathnavelu.

8. The Examiner rejects claims 32-35 and 37-39 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Mitra.

The Examiner rejects claims 32-35 and 37-39 for the same reasons as claims 12-15 and 17-19 respectively. Applicant likewise traverses the rejections on the same basis as discussed above for claims 12-15 and 17-19.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 32-35 and 37-39 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Mitra.

9. The Examiner rejects claims 36 and 40-42 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Mitra and further in view of Lee (US 6,252,847).

Referring to claim 36, applicant has amended the claim to replace "quality of service requirement" with --second media type-- as disclosed in the specification as filed in the Abstract, lines 5-8. Applicant respectfully submits that none of Akhtar, Mitra, and Lee, alone or in combination, teaches or suggests determining a second media type in accordance with instantaneous availability of bandwidth resources as now claimed.

Referring to claim 40, applicant relies on the patentability of the claims from which this claim depends to traverse the rejection without prejudice to any further basis for patentability of this claim based on the additional limitations recited.

Referring to claim 41, the Examiner admits that Akhtar does not disclose means for determining said quality of service requirement in accordance with a service plan profile of a calling party associated with the voice call. The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to implement a system wherein a network operator uses service level agreements it has with their customers (i.e. calling parties), in order to determine and provide quality of service requirements (see column 4 lines 47-53) as disclosed by Mitra. Applicant respectfully disagrees.

The disclosure of service level agreements (SLAs) by Mitra is not a disclosure of "a service plan profile of a calling party" as used in this application. As discussed on page 49, lines 3-6, of the specification as filed, service plan profiles are maintained by the call server for individuals or groups of users. It would be understood by one of ordinary skill in the art that "a service plan profile of a calling party" as used in this application refers to information maintained by the carrier class switch apparatus to control how the switch handles calls placed by various calling parties that use the switch to place telephone calls to be received and relayed by the switch. Service level agreements as used by Mitra are agreements between a service provider (i.e. the operator of the network to which a switch is attached) and an operator of a device that uses the provided service (i.e. the operator of the switch). SLAs are contracts that define what service will be provided in bulk. An SLA would at best define what minimum level of quality of service is to be provided by the service provider. The SLA would not associate a particular voice call with a quality of service requirement. There is no motivation to combine SLAs as taught by

Mitra with the system of Akhtar as suggested by the Examiner because Akhtar does not teach or suggest a system that can respond to a quality of service requirement. There would be no reasonable expectation of success in combining SLAs as taught by Mitra with the system of Akhtar because the system of Akhtar is predefined with regard to what quality of service it will provide.

Referring to claim 42, applicant has amended this claim similarly to claims 11 and 22 as discussed above in connection with claims 1 and 12.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 36 and 40-42 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Mitra and further in view of Lee.

Conclusion

Applicant reserves all rights with respect to the applicability of the doctrine of equivalents. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Dated: 10/15/2004

By_____

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